

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

| | | |
|---------------------------|---|------------------------------------|
| DONALD L. JONES, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | ACTION NO.: 2:07-cv-713-MEF |
| |) | |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Defendant. |) | |

DEFENDANT’S MOTION TO DISMISS

Comes now the defendant, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and moves this Court to dismiss the above-styled action pursuant to Rules 12(b)(1) and/or 12(b)(6) of the Federal Rules of Civil Procedure. The defendant asserts that each and every claim within the complaint is due to be dismissed as the plaintiff due to sovereign immunity and/or the plaintiff has failed to state a claim upon which relief may be granted. In support of this motion, the defendant relies on the following:

1. The pleadings, which are of record and, hence not submitted herewith;
2. The exhibits attached hereto which are numbered as Defendant’s Exhibits A and B.
3. The memorandum brief contemporaneously filed herewith.

WHEREFORE, premises considered, the complaint is due to be and should be dismissed and/or summary judgment granted Defendant with costs of this litigation taxed to Plaintiff.

Respectfully submitted this the 10th day of December, 2007.

LEURA G. CANARY
United States Attorney

By: s/R. Randolph Neeley
R. RANDOLPH NEELEY
Assistant United States Attorney
Bar Number: 9083-E56R
Post Office Box 197
Montgomery, AL 36101-0197
Telephone No.: (334) 223-7280
Facsimile No.: (334) 223-7418
E-mail: rand.neeley@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and I hereby certify that I have mailed, by United States Postal Service, a copy of same to the following non-CM/ECF participant(s):

Donald L. Jones
P.O. Box 92
Brantley, AL 36009

s/ R. Randolph Neeley
Assistant United States Attorney

EXHIBIT A

DECLARATION OF DEBORAH LASSEIGNE

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

DONALD J. JONES

Plaintiff,

v.

DEBORAH LASSEIGNE

Defendant.

No: 2:07-CV-713-MEF

DECLARATION OF DEBORAH LASSEIGNE

I, Deborah Lasseigne, having been duly sworn, do depose and state as follows:

1. I am employed by the United States Postal Service (Postal Service) as the Postmaster of Brantley, Alabama

2. As Postmaster of Brantley, Alabama, I have knowledge of parcels' that are sent out from Brantley with special services, such as Collect on Delivery (COD).

3. On December 13, 2006, Mr. Donald J. Jones sent a COD parcel to Ms. Carmen Merten by the Postal Service. A copy of the relevant documents is attached at Exhibit 1 hereto.

4. The COD parcel contained Swardovski crystal jewelry with an estimated value of \$284.00. A copy of the relevant documents is attached at Exhibit 2 hereto.


5. The COD parcel was delivered on December 15, 2006, and the addressee, Ms. Merten, sent a check back to Plaintiff in the amount of \$284.00.

A copy of the relevant documents is attached at Exhibit 3 hereto.

I swear that I have read the above declaration, consisting of this and 2 other pages, and that it is true and correct to the best of my knowledge.


DEBORAH LASSEIGNE

Sworn to and subscribed before me this 17th day of December, 2007.


NOTARY PUBLIC

My commission expires:

6-21-2008

EXHIBIT 1
DECLARATION OF DEBORAH LASSEIGNE

154962

SAVE THIS RECEIPT

See reverse side for claims information.



* M 4 1 1 0 8 5 9 2 8 *

Check Amount **\$284.00** Cash Amount **\$284.95**

☐ Registered Mail ☐ Express Mail ☐ Form 3849-D Requested

Date of Mailing

12-13-06

From: Donald Jones
PO Box 92
Brentley, AL 36007

To: Carmen Merten
1606 17th Ave
Columbus GA 31904

COD

Check and Enter Amount (If Applicable)

☐ Special Handling ☐ Return Receipt ☐ Restricted Delivery

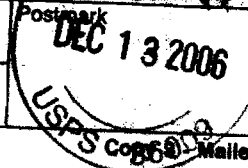
Amount

COD Fee

7.90

Postage

9.49



UNITED STATES
POSTAL SERVICE™

PS Form 3816, December 1994

For Mailer's Copy

EXHIBIT 2
DECLARATION OF DEBORAH LASSEIGNE

Loving Jewel, Inc.
Carmen Herten
1606 17th Ave
Columbus, GA

| NAME Donald Jones | | SHIP TO SAME | |
|--|---|-------------------------------|-------------------|
| ADDRESS P.O. Box 82 | | ADDRESS | |
| CITY, STATE, ZIP Brantley, AL 36609 | | CITY, STATE, ZIP | |
| ORDER NUMBER | DEPARTMENT | SALESPERSON Mario La Roche | WHEN SHIP ASAP |
| | | TERMS (00) | HOW SHIP (00) |
| | | | DATE 12/12/07 |
| QUANTITY | DESCRIPTION | PRICE | AMOUNT |
| 1 | 6mm Swarovski Necklace Crystal/red 22" | | 48 20 |
| 1 | 6mm Swarovski Necklace Crystal/blue 22" | | 48 20 |
| 1 | 6mm Swarovski Necklace Crystal/black 22" | | 48 20 |
| 1 | 6mm Swarovski Necklace Crystal/green 22" | | 48 20 |
| 1 | 6mm Swarovski Dangle Earrings crystal/red | | 18 20 |
| 1 | 6mm Swarovski Dangle Earrings crystal/blue | | 18 20 |
| 1 | 6mm Swarovski Dangle Earrings crystal/black | | 18 20 |
| 1 | 6mm Swarovski Dangle Earrings crystal/green | | 18 20 |
| | Total | | 265 60 |
| | + Tax | | 18 60 |
| | Total with Tax | | 284 20 |
| BUYER: | | | |

EXHIBIT 3
DECLARATION OF DEBORAH LASSEIGNE

Lasseigne, Deborah A - Brantley, AL

From: Brinson, Stacy D - Columbus, GA
Sent: Wednesday, January 03, 2007 2:14 PM
To: Lasseigne, Deborah A - Brantley, AL; ~31901 Columbus, GA - Downtown Station
Subject: RE: COD

I have the 3822 where it was signed by the clerk as being received 12/15/06. The 3816 was initialed by the carrier and the check number is 1040. Payment was sent to mailer on 12/15/06.

Stacy Brinson
Manager Customer Service
Columbus - Downtown Station
706/317-0007

-----Original Message-----

From: Lasseigne, Deborah A - Brantley, AL
Sent: Wednesday, January 03, 2007 2:30 PM
To: ~31901 Columbus, GA - Downtown Station
Subject: COD

I'm still trying to find out what happen to a COD # M411085928 mailed to a Carmen Merten @ 1606 17th Ave on Dec 13. She said she received the COD on Dec 15 and sent a check for it. Nothing is showing up in the system that the COD was delivered, nor anything on how the customer paid for it, with a clearance scan. She told my customer she paid the postman on Dec. 15 for the merchandise. Will you please check to see if you have any information on this item.
Thank you!

Deborah A. Lasseigne
Postmaster
Brantley, AL. 36009-9998
334-527-3578

8/8/2007

EXHIBIT B

DECLARATION OF AUTRIA FINLEY

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

DONALD J. JONES

Plaintiff,

v.

DEBORAH LASSEIGNE

Defendant.

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No: 2:07-CV-713-MEF

DECLARATION OF AUTRIA FINLEY

I, Autria Finley, having been duly sworn, do depose and state as follows:

1. I am employed by the United States Postal Service (Postal Service) as the Supervisor, Claims and Inquiries Section of the St. Louis Accounting Service Center

2. In that position, I am familiar with the claim of Mr. Donald Jones regarding his COD parcel.

3. Mr. Jones filed a claim for the \$284.00 with the Postal Service's Accounting Service Center, Claims Processing Center, (ASC), which has the responsibility under postal regulations for adjudicating such claims, on February 1, 2007. A copy of the relevant documents is attached hereto as Exhibit 1.

4. On March 13, 2007, the St. Louis ASC denied Mr. Jones' claim because his claim was not properly payable as the check had been collected from the addressee and mailed to Plaintiff. A copy of the relevant documents is attached hereto as Exhibit 2.

5. Mr. Jones was informed in the letter denying his claim that he was to contact the addressee, Ms. Merten, to get her to issue a replacement check, and that the Postal Service would pay cancellation charges if the original check had to be cancelled. A copy of the relevant documents is attached hereto as Exhibit 2.

6. On March 20, Plaintiff appealed the denial of his claim to the Postal Service's Consumer Advocate.

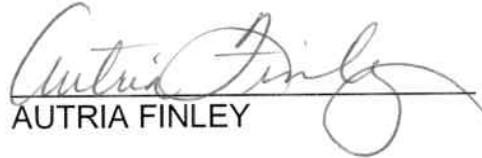
7. On April 19, 2007, the Consumer Advocate denied Plaintiff's appeal. A copy of the relevant documents is attached hereto as Exhibit 3.

8. Pursuant to DMM 503.2.3.1, nonnegotiable instruments, which include COD checks that are to be made out to the sender of the COD parcel under DMM 503.11.2.1, are only payable for their replacement cost. A copy of the relevant documents is attached hereto as Exhibit 4.

9. When a COD check is lost or misdelivered, the COD coverage only covers the cost, if any, incurred to replace the COD check, such as costs to cancel the check that was lost or to issue a new check.

10. COD service does not include the Postal Service paying for a check to the sender of the COD parcel that was lost or misdelivered.

I swear that I have read the above declaration, consisting of this and 2 other pages, and that it is true and correct to the best of my knowledge.


AUTRIA FINLEY

Sworn to and subscribed before me this 3rd day of December, 2007.


NOTARY PUBLIC

My commission expires:

Jan. 19, 2009

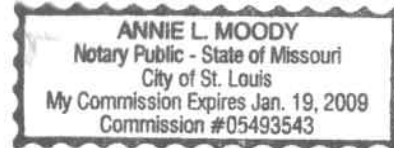


EXHIBIT 1
DECLARATION OF AUTRIA FINLEY



00713-MEF-TFM

Document 16-3

Domestic Claim or Registered Mail Inquiry

(Type or print legibly with a black ink ball-point pen.)

| | | | | | |
|---|----------------|-----------------------|---|----------------|--------------------------|
| 1. Mailer Information | | | 2. Addressee Information | | |
| a. First Name DONAL | b. MI L | c. Last Name JONES | a. First Name COLUMBES | b. MI GA | c. Last Name COLUMBES |
| d. Business Name (Use only if the mailer is a company) | | | d. Business Name (Use only if the addressee is a company) | | |
| e. Street Name 1 (No., st., ste./apt. no.) P.O. BOX 42 | | | e. Street Name 1 (No., st., ste./apt. no.) 1606 17TH AVENUE | | |
| f. Street Name 2 (No., st., ste./apt. no.) 36009 | | | f. Street Name 2 (No., st., ste./apt. no.) | | |
| g. City MARIETTA | h. State AL | i. ZIP + 4 36009 | g. City COLUMBUS | h. State GA | i. ZIP + 4 31901-2049 |
| j. Telephone No. (Include area code) 11-334-527-3035 | | | j. Telephone No. (Include area code) | | |
| 3. Payment Assignment - Alternate Payment Address | | | 4. Description of Lost or Damaged Article(s). Add Extra Sheets as Needed | | |
| a. Who is to Receive Payment? (Check one) <input checked="" type="checkbox"/> Mailer <input type="checkbox"/> Addressee | | | a. Item No. | | |
| b. Street Name 1 (If other than address above) (No., st., ste./apt. no.) | | | b. Description of Article | | |
| c. Street Name 2 (No., st., ste./apt. no.) | | | c. Article Code - See Cover | | |
| d. City | | | d. Value for Cost | | |
| e. State | | | e. Purchase Date | | |
| f. ZIP + 4 | | | | | |
| 5. COD Amount to Be Remitted to Sender (For business mailer COD claims only) \$ 284.00 | | | 6. Total Amount Claimed for All Articles \$ 284.00 | | |
| 7. Certification and Signature I hereby certify that all information furnished on this form is accurate, truthful, and complete. I understand that anyone who furnishes false or misleading information on this form, whether by including it or omitting it, may be subject to criminal and/or civil penalties, including fines and imprisonment. | | | | | |
| a. Customer Submitting Claim: <input checked="" type="checkbox"/> Mailer <input type="checkbox"/> Addressee | | | | | |
| b. Signature of Customer Filing the Claim Donal Jones | | | | | |
| c. Date Signed (MM/DD/YYYY) 1-Feb-2007 | | | | | |
| 8. Service Category (Check only one) | | | | | |
| i. <input type="checkbox"/> Numbered Insured Mail | | | | | |
| ii. <input type="checkbox"/> Unnumbered Insured Mail | | | | | |
| iii. <input type="checkbox"/> Registered Mail w/ Insurance | | | | | |
| iv. <input type="checkbox"/> Registered Mail™ w/o Insurance (Inquiry Only) | | | | | |
| v. <input type="checkbox"/> Express Mail® Service (Merchandise) | | | | | |
| vi. <input type="checkbox"/> Express Mail Service (Document Reconstruction) | | | | | |
| vii. <input checked="" type="checkbox"/> COD Mail | | | | | |
| viii. <input type="checkbox"/> Registered COD Mail | | | | | |
| ix. <input type="checkbox"/> Express Mail COD Service | | | | | |
| 10. If service category is Express Mail, Service Merchandise, COD or document reconstruction, was the service guaranteed mail? <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | | |
| 2. Postage Paid \$ 9.49 | | | 3. Insurance Fee \$ | | |
| 4. Other Refundable Fees COD Amount \$ 284.00 | | | | | |
| 5. Reason for Claim Category (Check only one) | | | | | |
| a. <input type="checkbox"/> Article Not Delivered | | | | | |
| b. <input type="checkbox"/> Container Only Delivered | | | | | |
| c. <input type="checkbox"/> Some Contents Delivered | | | | | |
| d. <input type="checkbox"/> Some Contents Damaged | | | | | |
| e. <input type="checkbox"/> All Contents Damaged | | | | | |
| f. <input type="checkbox"/> Repair of Damaged Contents | | | | | |
| g. <input checked="" type="checkbox"/> No COD Remittance Received | | | | | |
| h. <input type="checkbox"/> Delay of Express Mail Service Containing Non-Negotiable Documents | | | | | |
| 6. If claim reason is for damage or loss of contents, was the wrapper/container/packaging and article presented? <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | | |
| If YES, indicate reason for damage (check one) and provide description on separate sheet. | | | | | |
| a. <input type="checkbox"/> Visible Damage | | | | | |
| b. <input type="checkbox"/> Transported by Non-USPS® Carrier | | | | | |
| c. <input type="checkbox"/> Damage Caused by USPS | | | | | |
| d. <input type="checkbox"/> Damage not Caused by USPS | | | | | |
| 7. Location of Damaged Article(s) <input type="checkbox"/> Post Office <input type="checkbox"/> MRC <input type="checkbox"/> Discarded by Post Office | | | | | |
| 8. Mailing Receipt Presented? (Important: Unnumbered insured and Express Mail service mailing receipts must be surrendered by the customer and retained in Post Office files) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | | | | |
| 9. Evidence of Value for Article(s) Presented? (Attach copy) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | | | | |
| 10. Proof of Insurance Verification | | | 11. Local Adjudication | | |
| a. Mailing Receipt No. (Include all letters and numbers) M 411085928 | | | b. ZIP + 4 Where Package Mailed 31901-2049 | | |
| c. COD No. (COD claims only, include all letters and numbers) | | | d. Mailing Date (MM/DD/YYYY) 1-2-06 | | |
| 11a. Signature of Approval Authority Donal Jones | | | 12. Round Date Stamp of Accepting Office FEB 05 2007 | | |
| 11b. Date (MM/DD/YYYY) 334-527-3598 | | | 12a. Round Date Stamp of Accepting Office FEB 05 2007 | | |

Postal Service Instructions — Post Office™ Where Claim Filed

Section A

Verify customer entries for accuracy in Section A against those on the original mailing receipt. On the back of the mailing receipt: (1) write "Claim Filed"; (2) round date stamp; (3) check box for insured and Express Mail service claims. **NOTE:** Original mailing receipts must be retained for unnumbered insured and Express Mail service claims.

Section B

Complete items 1–10 and 12 of Section B before the customer leaves.

1. Enter the service category.
2. Enter postage paid.
3. Enter insurance fee paid.
4. Enter other refundable fees paid, (e.g., Delivery).
5. Check the reason for the claim.
6. Check the contents: Indicate if the wrapper, container, packaging, and article are presented. If yes, check the reason for damage and attach a separate sheet that provides a complete description of the damage. If there is no visible damage to the container and damage could have occurred while in postal custody, provide explanation.

7. If the claim is for damage, indicate the location of the damaged article(s).
8. Verify if the mailing receipt was presented. For unnumbered insured and Express Mail service claims, the original receipt must be retained in Post Office files.
9. Indicate if evidence of value was presented (attach copy).
10. Record the mailing receipt number and COD number (if applicable). For Registered™, COD Mail, and Express Mail COD service, record both numbers. Enter ZIP Code™ where article was mailed and mailing date. Do not enter the Delivery Confirmation service number.
11. For locally adjudicated (unnumbered) claims: If claim is paid, enter money order number, date and amount (signature of approval is required). If claim is denied, enter reason for denial. In either case, the PS Form 1000 must be sent to the St. Louis Accounting Service Center.
12. Accepting office must sign claim form, enter the number and 4-digit unit ID number, and round date stamp.

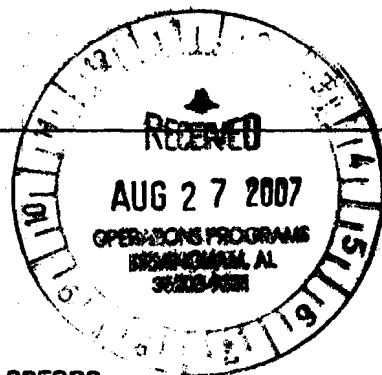
Distribution of Form

NOTE: Mail claim forms to the St. Louis Accounting Service Center DAILY.

| With supporting documents, send to: | | After adjudication, send to: | Filing instructions: |
|--|---|---|--|
| 1. CLAIMS SERVING SECTION ACCOUNTING SERVICE CENTER PO BOX 80143 ST LOUIS MO 63180-0143 | | CLAIMS SERVING SECTION ACCOUNTING SERVICE CENTER PO BOX 80143 ST LOUIS MO 63180-0144 | POM, Section 812 Handbook DM-901, Registered Mail Section 741. |
| 2. | Customer | Customer | Customer |
| 3. | Retain at: POST OFFICE ACCEPTING CLAIM | Retain at: POST OFFICE ACCEPTING CLAIM | Retain at: POST OFFICE ACCEPTING CLAIM |

EXHIBIT 2
DECLARATION OF AUTRIA FINLEY

ACCOUNTING SERVICE CENTER



March 13, 2007



DONALD L JONES
PO BOX 92
BRANTLEY AL 36009-0092

Parcel Ident Code: M411085928
Claim ID: 669719
Date Mailed: December 13, 2006

We have completed our review of the postal insurance claim for the article referenced above. As indicated below, our records indicate this COD article was delivered and the amount due sender was paid by a personal check or money order from the customer. Therefore, we have no alternative but to deny your claim.

If payment was made by check, please contact the addressee for a photocopy of the cancelled check. If not available, request the addressee issue a replacement check. If there are 'stop pay' charges incurred for 'stopping' the original check, and they are deducted from the amount of the replacement check, the United States Postal Service will refund this amount upon receipt of supporting documentation.

If a postal money order was used as payment and you have not received this money order you should contact your local post office immediately for processing a PS Form 6401.

For all other money orders used as payment, please contact the issuing agency.

Appeals to this decision must be submitted in writing within 60 days from the date of this letter. To file an appeal, return a copy of this letter along with any additional information you have to support your appeal, to the address shown below:

COD Clearance ID: 1040

COD Payment Amount: \$284.00 on 12/15/06

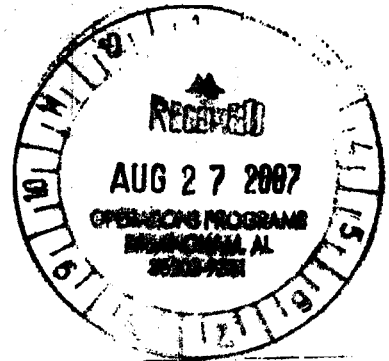
The addressee for the article referenced is:

CARMEN MERTEN
1606 17TH AVE
COLUMBUS, GA 319012049

CCRS

Autria Finley

Autria Finley, Supervisor
Claims and Inquiry Section
Accounting Service Center
PO Box 80141
Saint Louis, MO 63180-0141
1-866-974-2733



CCRS

EXHIBIT 3
DECLARATION OF AUTRIA FINLEY

CONSUMER ADVOCATE



April 19, 2007

Mr. Donald L. Jones
P.O. Box 92
Brantley, AL 36009-0092

Dear Mr. Jones:

This responds to your appeal on an indemnity claim filed with the Consumer Advocate.

While we regret your dissatisfaction with the insurance coverage offered for COD mail, there is little I can add to the information you have already received. When the sender of a COD article files an indemnity claim, and it is determined that the delivery Post Office collected the amount due and sent it to the mailer, postal requirements prohibit any further action regarding the recipient's check.

As you have been advised, postal records show that COD article number M411085928 was delivered on December 15, 2006. The addressee paid the COD charges with check number 1040, which was mailed to your address by the delivery office. While we regret the fact that the addressee is not cooperating with you and is unwilling to issue you another check, the Postal Service will not enter into any disputes concerning the recipient's check. Rather, Postal Service liability is limited to stop payment charges on checks when it is proven that a specific check collected was not received by the sender.

Under these circumstances, your claim cannot be approved for payment. This office is the final level of postal authority concerning claim appeals.

I regret our response could not be more favorable.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl Woody".

Cheryl Woody
Consumer Research Analyst

cc: ~~Business & Inquiry Office~~
U.S. Postal Service
17 Monroe Street
Brantley, AL 36009-9998

A. Completed by Customer (Claims may be filed at any Post Office, Station, or Branch)

| | | | | | |
|--|-----------------------|------------------------------|--|---------------------------|------------------------------|
| 1. Mailer Information | | | 2. Addressee Information | | |
| a. First Name <u>DONALD</u> | b. MI <u>L.</u> | c. Last Name <u>JONES</u> | a. First Name <u>CARMEN</u> | b. MI <u></u> | c. Last Name <u>MCKEN</u> |
| d. Business Name (Use only if the mailer is a company) | | | d. Business Name (Use only if the addressee is a company) | | |
| e. Street Name 1 (No., st., ste./apt. no.) <u>P.O. BOX 92</u> | | | e. Street Name 1 (No., st., ste./apt. no.) <u>1606 TTHA AVE NW</u> | | |
| f. Street Name 2 (No., st., ste./apt. no.) | | | f. Street Name 2 (No., st., ste./apt. no.) | | |
| g. City <u>Memphis</u> | h. State <u>AR</u> | i. ZIP + 4 <u>36009</u> | g. City <u>Columbus</u> | h. State <u>GA</u> | i. ZIP + 4 <u>31901</u> |
| j. Telephone No. (Include area code) <u>1-334-521-3035</u> | | | j. Telephone No. (Include area code) | | |
| 3. Payment Assignment - Alternate Payment Address | | | 4. Description of Lost or Damaged Article(s) - Add Extra Sheets as Needed | | |
| a. Who Is to Receive Payment? (Check one) <input checked="" type="checkbox"/> Mailer <input type="checkbox"/> Addressee | | | a. Item No. | b. Description of Article | c. Article Code - See Cover |
| b. Street Name 1 (If other than address above) (No., st., ste./apt. no.) | | | 1 | | |
| c. Street Name 2 (No., st., ste./apt. no.) | | | 2 | | |
| d. City | | | 3 | | |
| e. State | | | | | |
| f. ZIP + 4 | | | | | |
| 5. COD Amount to Be Remitted to Sender (For business mailer COD claims only) <u>\$284.00</u> | | | 6. Total Amount Claimed for All Articles <u>\$284.00</u> | | |

| | | |
|---|---|--|
| 7. Certification and Signature | | |
| I hereby certify that all information furnished on this form is accurate, truthful, and complete. I understand that anyone who furnishes false or misleading information on this form, whether by including it or omitting it, may be subject to criminal and/or civil penalties, including fines and imprisonment. | | |
| a. Customer Submitting Claim: <input checked="" type="checkbox"/> Mailer <input type="checkbox"/> Addressee | b. Signature of Customer Filing the Claim <u>[Signature]</u> | c. Date Signed (MM/DD/YYYY) <u>1 Feb 2008</u> |

B. Completed by Postal Employee Where Claim is Filed

| | | | | |
|--|---|---|--|--|
| 1a. Service Category (Check only one) | | | 1b. If service category is Express Mail Service Merchandise, COD or document reconstruction, was the service guarantee met? | |
| i. <input type="checkbox"/> Numbered Insured Mail | iv. <input type="checkbox"/> Registered Mail™ w/o Insurance (Inquiry Only) | vii. <input checked="" type="checkbox"/> COD Mail | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| ii. <input type="checkbox"/> Unnumbered Insured Mail | v. <input type="checkbox"/> Express Mail® Service (Merchandise) | viii. <input type="checkbox"/> Registered COD Mail | | |
| iii. <input type="checkbox"/> Registered Mail w/ Insurance | vi. <input type="checkbox"/> Express Mail Service (Document Reconstruction) | ix. <input type="checkbox"/> Express Mail COD Service | | |
| 2. Postage Paid <u>\$1.59 + 7.90</u> | | 3. Insurance <u>\$284.00</u> | 4. Other Refundable Fees <u>9.40</u> | |

| | | | |
|--|---|--|---|
| 5. Reason for Claim Category (Check only one) | | | |
| a. <input type="checkbox"/> Article Not Delivered | c. <input type="checkbox"/> Some Contents Delivered | e. <input type="checkbox"/> All Contents Damaged | g. <input checked="" type="checkbox"/> No COD Remittance Received |
| b. <input type="checkbox"/> Container Only Delivered | d. <input type="checkbox"/> Some Contents Damaged | f. <input type="checkbox"/> Repair of Damaged Contents | h. <input type="checkbox"/> Delay of Express Mail Service Containing Non-Negotiable Documents |

6. If claim reason is for damage or loss of contents, was the wrapper/container/packaging and article presented? ☐ Yes ☒ No
 If YES, indicate reason for damage (check one) and provide description on separate sheet.

| | | | |
|--|--|---|---|
| a. <input type="checkbox"/> Visible Damage | b. <input type="checkbox"/> Transported by Non-USPS® Carrier | c. <input type="checkbox"/> Damage Caused by USPS | d. <input type="checkbox"/> Damage not Caused by USPS |
|--|--|---|---|

| | | | |
|---|----------|---|--------------------------------------|
| 7. Location of Damaged Article(s) (Enter city, state, ZIP + 4, and telephone no.) | | a. (Check one) <input type="checkbox"/> Post Office <input type="checkbox"/> MRC <input type="checkbox"/> Discarded by Post Office | |
| b. City | c. State | d. ZIP + 4 | e. Telephone No. (Include area code) |

| | | | |
|--|--|---|--|
| 8. Mailing Receipt Presented? (Important: Unnumbered Insured and Express Mail service mailing receipts must be surrendered by the customer and retained in Post Office files) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | 9. Evidence of Value for Article(s) Presented? (Attach copy) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
|--|--|---|--|

| | | | |
|--|--|---|--|
| 10. a. Mailing Receipt No. (Include all letters and numbers) | | b. ZIP + 4 Where Package Mailed | |
| c. COD No. (COD claims only, include all letters and numbers) <u>M411085928</u> | | d. Mailing Date (MM/DD/YYYY) <u>12-13-06</u> | |

| | | | |
|---|--|---|--|
| 11. Local Adjudication | | 12. Round Date Stamp of Accepting Office | |
| a. <input type="checkbox"/> Approved (Enter money order no., date, and amount): M.O. No.: _____ Date: _____ Amount: \$ _____ | | <u>BRANTLEY</u> <u>FEB 05 2007</u> | |
| b. <input type="checkbox"/> Denied (Enter reason): _____ | | | |

| | | | |
|--|--|---|--|
| 11c. Signature of Approval Authority <u>[Signature]</u> | | 11d. Date (MM/DD/YYYY) <u>2/5/08</u> | |
|--|--|---|--|

EXHIBIT 4
DECLARATION OF AUTRIA FINLEY

[DMM TOC](#) > [500 Additional Mailing Services](#)

503 Extra Services

- 1.0 Extra Services for Express Mail
- 2.0 Registered Mail
- 3.0 Certified Mail
- 4.0 Insured Mail
- 5.0 Certificate of Mailing
- 6.0 Return Receipt
- 7.0 Restricted Delivery
- 8.0 Return Receipt for Merchandise
- 9.0 Delivery Confirmation
- 10.0 Signature Confirmation
- 11.0 Collect on Delivery (COD)
- 12.0 Special Handling
- 13.0 Confirm Service
- 14.0 Money Orders

1.0 Extra Services for Express Mail

1.1 Available Services

1.1.1 Mailing Receipt

A receipt showing the time and date of mailing must be provided to the mailer on acceptance of Express Mail by the USPS. This receipt is a copy of the multipart Express Mail label affixed to the mailpiece and serves as evidence of mailing. Mailers authorized to present Express Mail under Express Mail Manifesting procedures in 705.2.0 must use a one-ply label and retain the verification manifest as the mailing receipt.

1.1.2 Proof of Delivery

Proof of delivery information for Express Mail is available as follows:

- a. Individual requests by article number can be retrieved at www.usps.com or by calling 1-800-222-1811. A proof of delivery letter is provided via fax or mail.
- b. Bulk proof of delivery letters are available only to mailers using Express Mail Manifesting service and can be obtained in CD-ROM or Signature Extract File formats. For additional information see Publication 80, *Bulk Proof of Delivery Program*.

1.1.3 Return Receipt

Return receipt service under 6.0 may be purchased for Express Mail. The

envelope or wrapper.

- f. Presented for mailing in a padded envelope; envelope or mailer manufactured of spun-bonded olefin, such as Tyvek; plastic envelope or mailer; or envelope or mailer made of glossy-coated paper.

2.2.5 Additional Services

Purchasing Registered Mail service allows customers to then purchase restricted delivery service or a return receipt. The following additional services may be combined with Registered Mail if the applicable standards for the services are met and the additional service fees are paid:

- a. Collect on delivery (COD) service.
- b. Delivery Confirmation.
- c. Signature Confirmation.

2.3 Fees and Liability

2.3.1 Full Value

Regardless of any insurance that may cover the article, the mailer must always declare its full value to the USPS when presenting it for registration and mailing (see chart below). The mailer must tell the USPS clerk (or enter on the firm sheet if a firm mailer) the full value of mail matter presented for registration. Private insurance carried on Registered Mail does not modify the requirements for declaring the full value. The accepting USPS employee may ask the mailer to show that the full value of the matter presented is declared, and may refuse to accept the matter as Registered Mail if a satisfactory declaration of value is not provided. Only articles of no value may be mailed as Registered Mail without insurance.

| MAIL MATTER | VALUE TO BE DECLARED |
|---|--|
| Negotiable Instrument (instruments payable to bearer, including stock certificates endorsed in blank) | Market value (value based on value at time of mailing) |
| Nonnegotiable Instrument [registered bonds, warehouse receipts, checks, drafts, deeds, wills, abstracts, and similar documents (certificates of stock considered nonnegotiable so far as declaration of value is concerned unless endorsed in blank)] | No value or replacement cost if postal insurance coverage desired ¹ |
| Money | Full value |
| Jewelry, Gems, Precious Metal | Market value or cost |
| Merchandise | Market value or cost |
| Nonvaluable (matter without intrinsic value such as letters, files, records) | No value or replacement cost if postal insurance coverage desired ¹ |

1. A mailer who does not know replacement costs should contact a person or firm familiar with such documents and determine replacement costs before mailing the articles.

2.3.2 Fee and Postage

The fee and postage may be paid with ordinary postage stamps, meter stamps, or permit imprints. If a permit imprint is used, the exact amount of postage and fees paid must be shown within the permit imprint. For pieces that are part of a manifest mailing, only the registry fee must be shown within the permit imprint. The fee and postage on official mail of authorized federal agencies may also be paid with penalty stamps, penalty meter stamps, or

Back to Top

11.0 Collect on Delivery (COD)

11.1 Collect on Delivery Fees

11.1.1 Fee

Fee, in addition to postage and other fees, per piece:

| AMOUNT TO BE COLLECTED OR INSURANCE COVERAGE DESIRED, WHICHEVER IS HIGHER ¹ | FEE |
|---|--------|
| \$0.01 to \$50 | \$5.10 |
| 50.01 to 100 | 6.25 |
| 100.01 to 200 | 7.40 |
| 200.01 to 300 | 8.55 |
| 300.01 to 400 | 9.70 |
| 400.01 to 500 | 10.85 |
| 500.01 to 600 | 12.00 |
| 600.01 to 700 | 13.15 |
| 700.01 to 800 | 14.30 |
| 800.01 to 900 | 15.45 |
| 900.01 to 1,000 | 16.60 |
| ADDITIONAL COD SERVICES | FEE |
| Restricted delivery ² | \$4.10 |
| Notice of nondelivery | 3.40 |
| Alteration of COD charges | 3.40 |
| Designation of new addressee | 3.40 |
| Registered COD ³ | 4.55 |

1. For Express Mail COD shipments valued at \$100 or less, the COD fee is based on the amount to be collected. Express Mail Insurance automatically provides up to \$100 merchandise insurance.

2. Not available with Express Mail COD.

3. Regardless of amount to be collected or insurance value.

11.1.2 Fee and Postage

The applicable COD fee must be paid in addition to the correct postage and the fees for other services requested. The amount to be collected or the amount of insurance coverage desired, whichever is higher, determines the COD fee. The fees for COD service include insurance against loss, rifling, or damage to the article or failure to receive a postal money order or the recipient's check. Postal liability for failure to receive the recipient's check or a postal money order is limited to loss in transit.

11.2 Basic Information

11.2.1 Description

Any mailer may use collect on delivery (COD) service to mail an article for which the mailer has not been paid and have its price and the cost of the postage collected from the recipient. The recipient has the option to pay the COD charges using either cash or personal check. Only one form of payment

may be used for a single mailpiece. If the recipient pays the amount due by check payable to the mailer, the USPS forwards the check to the mailer. If the recipient pays the amount due in cash, the USPS collects the money order fee (s) from the recipient and sends a postal money order(s) to the mailer. The amount collected from the recipient may not exceed \$1,000. COD service provides the mailer with a mailing receipt. USPS maintains a record of delivery (which includes the recipient's signature) for a specified period of time. Customers may obtain a delivery record by purchasing return receipt service. See 6.0 for details.

11.2.2 Eligible Matter

COD service may be used for Express Mail, First-Class Mail, Priority Mail, and any Package Services subclass if:

- a. The mail has the complete names and addresses of the mailer and addressee.
- b. The mailer guarantees to pay any return postage, unless otherwise specified on the mail.
- c. The goods shipped are ordered by the addressee.

11.2.3 Additional Services

Purchasing COD service allows customers to then purchase restricted delivery service or a return receipt. The following additional services may be combined with COD if the applicable standards for the services are met and the additional service fees are paid:

- a. Delivery Confirmation (not available with Express Mail COD).
- b. Registered Mail.
- c. Signature Confirmation (not available with Express Mail COD).
- d. Special handling.

11.2.4 Registered COD Mail

Sealed domestic mail of any class bearing First-Class Mail postage may be sent as registered COD mail. Such mail is handled the same as other Registered Mail. The maximum amount collectible from the recipient on an individual parcel is \$1,000. Indemnity may be purchased up to the registry limit of \$25,000 by paying the applicable registry fee for the value declared. The total fees charged for registered COD service include the proper registry fee for the value declared plus the registered COD fee. The mailer must declare the full value of the article being mailed, regardless of the amount to be collected from the recipient. The registered label and the COD form must be affixed to each article. The registration number is used for delivery receipt and indemnity claims.

11.2.5 Express Mail COD

Any article sent COD also may be sent by Express Mail next day and second day service. Such mail is handled in the same manner as other Express Mail. The maximum amount collectible from the addressee on an individual article is \$1,000, and indemnity for failure to collect or issue payment is limited to \$1,000. Express Mail postage and the proper COD fees must be paid. Both the Express Mail label and COD form must be affixed to each article. The Express Mail article number is used for delivery receipt and indemnity claims.

11.2.6 Ineligible Matter

[11-8-07] COD service may not be used for:

- a. Collection agency purposes.
- b. The return of merchandise about which some dissatisfaction arises, unless the new addressee consents in advance to such return.
- c.